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Clerk of the Courts

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: ADOPTION OF RULE 50A,
RULES OF THE SUPREME COURT OF TENNESSEE**

No. M2010-00330-SC-RL2-RL

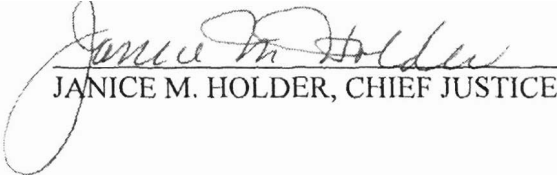
ORDER

The Court hereby adopts new Rule 50A, Rules of the Supreme Court of Tennessee, establishing special initiatives to improve access to justice. The new Tenn. Sup. Ct. R. 50A, as set out in the attached Appendix, shall take effect on January 1, 2011.

The Clerk shall provide a copy of this order, including the attached Appendix, to LexisNexis and to Thomson-Reuters/West. In addition, this order, including the attached Appendix, shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

FOR THE COURT:


JANICE M. HOLDER, CHIEF JUSTICE

APPENDIX

RULE 50A, RULES OF THE TENNESSEE SUPREME COURT SPECIAL INITIATIVES TO IMPROVE ACCESS TO JUSTICE

Section 1. Legal Services by Pro Bono Emeritus Attorneys.

1.01. Purpose. Attorneys have a responsibility to provide competent legal services for all persons, including those unable to pay for such services. As one means of meeting the unmet legal needs of those persons who are unable to afford counsel, this Court establishes the pro bono emeritus attorneys participation program.

1.02. Definitions.

(a) The “active practice of law” for purposes of this rule means engagement in the practice of law, including, but not limited to: private practice, in-house counsel, public employment, or employment by a not-for-profit organization.

(b) A “pro bono emeritus attorney” is any person, not currently actively engaged in the practice of law, who was or is admitted to practice before the Tennessee Supreme Court or the highest court of any other state or territory of the United States or the District of Columbia, and

(1) Has been engaged in the active practice of law for a minimum of five of the last ten years immediately preceding application to participate in the pro bono emeritus attorneys’ program, or who has taken retired or inactive status but was engaged in the active practice of law for at least twenty-five years preceding application to participate in the pro bono emeritus attorneys’ program;

(2) Has never been disbarred and has not been disciplined for professional misconduct by the bar or courts of any jurisdiction within the last ten years and is not on disability inactive status in any jurisdiction;

(3) If not a member of the Tennessee bar, has graduated from a law school accredited by the American Bar Association;

(4) Agrees to abide by the Tennessee Rules of Professional Conduct and to submit to the Tennessee Supreme Court for disciplinary purposes;

(5) Neither asks for nor receives compensation of any kind for the legal services to be rendered under this section; and

(6) Is certified under section 1.05.

(c) An “approved legal assistance organization” for the purposes of this section is a not for-profit legal assistance organization which is approved by the Tennessee Supreme Court. An organization which receives funding from the Legal Services Corporation is presumptively approved under this section. Any other organization seeking approval under this section must file a petition with the clerk of the Tennessee Supreme Court certifying that it is a not-for-profit organization and stating with specificity:

(1) The structure of the organization and whether it accepts funds from clients;

(2) The major sources of funds used by the organization;

(3) The criteria used to determine potential clients’ eligibility for legal services performed by the organization;

(4) The types of legal and non-legal services performed by the organization;

(5) The names of all members of the Tennessee bar who are employed by the organization and who regularly perform legal work for clients;

(6) The existence and extent of malpractice insurance to cover claims made by clients against a pro bono emeritus attorney.

(d) A “supervising attorney” is an active member of the Tennessee bar who oversees the work of a pro bono attorney engaged in activities permitted by this section. The supervising attorney must:

(1) Be employed by or be a participating volunteer for an approved legal assistance organization; and

(2) Assume responsibility for overseeing the work of the pro bono emeritus attorney to the same extent as any supervising attorney in a legal assistance program supervises any other volunteer attorney.

1.03. Scope of Representation. A pro bono emeritus attorney, in association with an approved legal assistance organization, may perform any legal work on behalf of a client that could be performed by any licensed attorney in the state of Tennessee, except that the

ability of a pro bono emeritus attorney to make court appearances is subject to court approval.

1.04. Supervision and Limitations.

(a) A pro bono emeritus attorney must perform all activities under the auspices of a supervising attorney. It is the responsibility of the supervising attorney to ensure that the pro bono emeritus attorney receives the same supervision as any other volunteer attorney or subordinate attorney, including compliance with the requirements of Tenn. R. Sup. Ct. 8, RPC 5.1.

(b) Pro bono emeritus attorneys permitted to perform services under this section are not, and shall not represent themselves to be, active members of the Tennessee bar licensed to practice in the state.

(c) The prohibition against compensation for the pro bono emeritus attorney contained in section 1.02(b)(5) shall not prevent the approved legal assistance organization from reimbursing the pro bono emeritus attorney for actual expenses incurred while rendering services under this section nor shall it prevent the approved legal assistance organization from making such charges for its services as it may otherwise properly charge. The approved legal assistance organization shall be entitled to receive all court-awarded attorneys' fees for any representation rendered by a pro bono emeritus attorney.

1.05. Certification. An attorney seeking permission to act as a pro bono emeritus attorney shall file an application with the clerk of the Tennessee Supreme Court, which shall consist of:

(a) A certificate by an approved legal assistance organization stating that the pro bono emeritus attorney is currently associated with that legal assistance organization, meets the requirements of section 1.02(b), and that an attorney employed by or participating as a volunteer with that organization will assume the duties of the supervising attorney as required under this section; and

(b) A sworn statement by the pro bono emeritus attorney that he or she:

(1) Has read and is familiar with the Rules of Professional Conduct and the Rules of the Supreme Court of Tennessee relating to the conduct of lawyers, and will abide by the provisions of those Rules;

(2) Submits to the jurisdiction of the Tennessee Supreme Court for disciplinary purposes, as defined by the Rules of Professional Conduct; and

(3) Will neither ask for nor receive compensation for any kind of legal services authorized by this Rule.

Permission for a pro bono emeritus attorney to perform services under this section shall become effective upon the Tennessee Supreme Court's written approval of the application.

1.06. Withdrawal of Certification.

(a) Permission to perform services under this section shall cease immediately upon the filing of a notice with the clerk of the Tennessee Supreme Court:

(1) By the approved legal assistance organization, stating that:

(A) The pro bono emeritus attorney has ceased to be associated with the organization, which notice must be filed within five days after such association has ceased; or

(B) That certification of such attorney has been withdrawn. An approved legal assistance organization may withdraw certification at any time and it is not necessary that the notice state cause for such withdrawal. A copy of the notice shall be filed with the clerk of the Tennessee Supreme Court and shall be mailed by the legal assistance organization to the pro bono emeritus attorney;

(2) By the Board of Professional Responsibility, stating that the pro bono emeritus attorney has been determined, after investigation, to have committed a violation of the Tennessee Rules of Professional Conduct meriting the imposition of discipline; or

(3) By the Tennessee Supreme Court, in its discretion, at any time, stating that permission to perform services under this section has been revoked. A copy of such notice shall be mailed by the clerk of the Tennessee Supreme Court to the pro bono emeritus attorney and to the approved legal assistance organization to which he or she had been certified by the Tennessee Supreme Court.

(b) If a pro bono emeritus attorney's certification is withdrawn for any reason, the supervising attorney shall immediately file a notice of such action in any court or tribunal in which the pro bono emeritus attorney was participating as counsel.

1.07. Discipline and Fees. A pro bono emeritus attorney performing services under this section shall abide by the Tennessee Rules of Professional Conduct and is subject to discipline, including withdrawal of certification under this rule, for any failure to comply with those Rules. A pro bono emeritus attorney is exempt from the registration fee required of all practicing attorneys. A pro bono emeritus attorney performing services solely under the authority of this section shall not be deemed to be a person licensed as an attorney by this Court for purposes of Tenn. Code Ann. § 67-4-1702(a)(5).

1.08. Mandatory Continuing Legal Education. Pro bono emeritus attorneys certified under section 1.05 must comply with Tennessee's continuing legal education requirements. Tenn. Sup. Ct. R. 21.